

MCHMANT, GOULD, SMITH, EDELL, WELTER & SCHMIDT

United States Patent Application

**COMBINED DECLARATION AND POWER OF ATTORNEY**

As a below named inventor I hereby declare that: my residence, post office address and citizenship are as stated below next to my name; that

I verily believe I am the original, first and sole inventor (if only one name is listed below) or a joint inventor (if plural inventors are named below) of the subject matter which is claimed and for which a patent is sought on the invention entitled: **INTELLIGENT AGENT WITH NEGOTIATION CAPABILITY AND METHOD OF NEGOTIATION THEREWITH**

The specification of which

- a.  is attached hereto
- b.  is entitled \_\_\_\_\_, having an attorney docket number
- c.  was filed on \_\_\_\_\_ as application serial no. \_\_\_\_\_ and was amended on \_\_\_\_\_ (if applicable) (in the case of a PCT-filed application) described and claimed in international no. \_\_\_\_\_ filed \_\_\_\_\_ and as amended on \_\_\_\_\_ (if any), which I have reviewed and for which I solicit a United States patent.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, § 1.56 (attached hereto).

I hereby claim foreign priority benefits under Title 35, United States Code, § 119/365 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on the basis of which priority is claimed:

- a.  no such applications have been filed.
- b.  such applications have been filed as follows:

FOREIGN APPLICATION(S), IF ANY, CLAIMING PRIORITY UNDER 35 USC § 119			
COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	DATE OF ISSUE (day, month, year)

  

ALL FOREIGN APPLICATION(S), IF ANY, FILED BEFORE THE PRIORITY APPLICATION(S)			
COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	DATE OF ISSUE (day, month, year)

I hereby claim the benefit under Title 35, United States Code, § 120/365 of any United States and PCT international application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application.

U.S. APPLICATION NUMBER	DATE OF FILING (day, month, year)	STATUS (patented, pending, abandoned)

I hereby appoint the following attorney and/or patent agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith:

Adriano, Sarah B.	Reg. No. 34,470	Kettelberger, Denise	Reg. No. 33,924
Batzli, Brian H.	Reg. No. 32,960	Kowalchyk, Alan W.	Reg. No. 31,535
Beard, John L.	Reg. No. 27,612	Kowalchyk, Katherine M.	Reg. No. 36,848
Beck, Robert C.	Reg. No. 28,184	Krull, Mark A.	Reg. No. 34,205
Bejin, Thomas E.	Reg. No. 37,089	Lacy, Paul A.	Reg. No. 38,946
Berman, Charles	Reg. No. 29,249	Lasky, Michael B.	Reg. No. 29,555
Bogucki, Raymond A.	Reg. No. 17,426	Lynch, David W.	Reg. No. 36,204
Bruess, Steven C.	Reg. No. 34,130	Mau, Michael L.	Reg. No. 30,087
Byrne, Linda M.	Reg. No. 32,404	McDaniel, Karen D.	Reg. No. 37,674
Canady, Karen S.	Reg. No. 39,927	McDonald, Daniel W.	Reg. No. 32,044
Carlson, Alan G.	Reg. No. 25,959	McDonald, Wendy M.	Reg. No. 32,427
Carter, Charles G.	Reg. No. 35,093	McIntyre, Iain A.	Reg. No. 40,377
Caspers, Philip P.	Reg. No. 33,227	Miller, William D.	Reg. No. 37,988
Chiapetta, James R.	Reg. No. 39,634	Mueller, Douglas P.	Reg. No. 30,300
Clifford, John A.	Reg. No. 30,247	Nasiedlak, Tyler L.	Reg. No. 40,099
Conrad, Timothy R.	Reg. No. 30,164	Nelson, Albin J.	Reg. No. 28,650
Cooper, Victor G.	Reg. No. 39,641	Pauly, Daniel M.	Reg. No. 40,123
Crawford, Robert	Reg. No. 32,122	Plunkett, Theodore	Reg. No. 37,209
Daignault, Ronald A.	Reg. No. 25,968	Pollinger, Steven J.	Reg. No. 35,326
Daley, Dennis R.	Reg. No. 34,994	Reich, John C.	Reg. No. 37,703
Daulton, Julie R.	Reg. No. 36,414	Reiland, Earl D.	Reg. No. 25,767
Davidson, Ben M.	Reg. No. 38,424	Schmaltz, David G.	Reg. No. 39,828
Dempster, Shawn B.	Reg. No. 34,321	Schmidt, Cecil C.	Reg. No. 20,566
DiPietro, Mark J.	Reg. No. 28,707	Schuman, Mark D.	Reg. No. 31,197
Edell, Robert T.	Reg. No. 20,187	Schumann, Michael D.	Reg. No. 30,422
Epp Ryan, Sandra	Reg. No. 39,667	Sebald, Gregory A.	Reg. No. 33,280
Farber, Michael B.	Reg. No. 32,612	Sharp, Janice A.	Reg. No. 34,051
Funk, Steven R.	Reg. No. 37,830	Skoog, Mark T.	Reg. No. 40,178
Gabilan, Mary Susan	Reg. No. 38,729	Smith, Jerome R.	Reg. No. 35,684
Gates, George H.	Reg. No. 33,500	Stinebruner, Scott A.	Reg. No. 38,323
Golla, Charles E.	Reg. No. 26,896	Sumner, John P.	Reg. No. 29,114
Gorman, Alan G.	Reg. No. 38,472	Summers, John S.	Reg. No. 24,216
Gould, John D.	Reg. No. 18,223	Tellekson, David K.	Reg. No. 32,314
Gresens, John J.	Reg. No. 33,112	Underhill, Albert L.	Reg. No. 27,403
Hamre, Curtis B.	Reg. No. 29,165	Vandenburgh, J. Derek	Reg. No. 32,179
Hassing, Thomas A.	Reg. No. 36,159	Welter, Paul A.	Reg. No. 20,890
Hillson, Randall A.	Reg. No. 31,838	Williams, Douglas J.	Reg. No. 27,054
Hollingsworth, Mark A.	Reg. No. 38,491	Wood, Gregory B.	Reg. No. 28,133
Johnston, Scott W.	Reg. No. 39,721	Xu, Min S.	Reg. No. 39,536
Kastelic, Joseph M.	Reg. No. 37,160		
Garnett, Pryor A.	Reg. No. 32,136	Roth, Steven W.	Reg. No. 34,712
Truelson, Roy W.	Reg. No. 34,265	Gamon, Owen J.	Reg. No. 36,143
Bussan, Matthew J.	Reg. No. 33,614	Ojanen, Karuna	Reg. No. 32,484
Hughes, Christopher A.	Reg. No. 26,914	Pennington, Edward A.	Reg. No. 32,588
Hoel, John E.	Reg. No. 26,279	Redmond, Jr., Joseph C.	Reg. No. 18,753

I hereby authorize them to act and rely on instructions from and communicate directly with the person/assignee/attorney/firm/ organization who/which first sends/sent this case to them and by whom/which I hereby declare that I have consented after full disclosure to be represented unless/until I instruct Merchant, Gould to the contrary.

Please direct all correspondence in this case to Merchant, Gould, Smith, Edell, Welter & Schmidt at the address indicated below:

3100 Norwest Center, Minneapolis, MN 55402-4131  
Telephone No. (612) 332-5300

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that the statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2	Full Name Of Inventor	Family Name BIGUS	First Given Name JOSEPH	Second Given Name PHILLIP
0	Residence & Citizenship	City ROCHESTER	State or Foreign Country MINNESOTA	Country of Citizenship U.S.A.
1	Post Office Address	Post Office Address 5113 HIGHLGROVE LANE NW	City ROCHESTER	State & Zip Code/Country MN/ 55901 / USA

**Signature of Inventor 201:**

Joseph Phillip Biggs

### Date:

3/17/97

2	Full Name Of Inventor	Family Name CRAGUN	First Given Name BRIAN	Second Given Name JOHN
0	Residence & Citizenship	City ROCHESTER	State or Foreign Country MINNESOTA	Country of Citizenship U.S.A.
2	Post Office Address	Post Office Address 2613 24TH STREET NW	City ROCHESTER	State & Zip Code/Country MN / 55901 / USA

Signature of Inventor 202:

Brian John Craig

**Date:**

3/14/97

Full Name Of Inventor	Family Name DELP	First Given Name HELEN	Second Given Name ROXLO
Residence & Citizenship	City ROCHESTER	State or Foreign Country MINNESOTA	Country of Citizenship U.S.A.
Post Office Address	Post Office Address 1714 NORTHERN VIOLA LANE NE	City ROCHESTER	State & Zip Code/Country MN / 55906 / USA

**Signature of Inventor 203:**

Helen Roxlo Delp

First Given Name  
HELEN

Second Given Name  
ROXLO

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**§ 1.56 Duty to disclose information material to patentability.**

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim;
- (2) It refutes, or is inconsistent with, a position the applicant takes in:
  - (i) Opposing an argument of unpatentability relied on by the Office, or
  - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

- (c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:
  - (1) Each inventor named in the application;
  - (2) Each attorney or agent who prepares or prosecutes the application; and
  - (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.
- (d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**SUBSTITUTE POWER OF ATTORNEY AND CERTIFICATE  
UNDER 37 CFR 3.73(B)**

**Assistant Commissioner for Patents  
Washington, D.C. 20231**

Sir:

On behalf of the assignee of the above-identified application, I hereby revoke any and all Powers of Attorney previously signed with respect to the above and instead appoint the following attorney(s) and/or agent(s), with full power of substitution and revocation, to prosecute this application, to transact all business in the United States Patent and Trademark Office connected herewith, and to receive the Letters Patent:

John D. Poffenberger	Reg. No. 20,245	Bruce Tittel	Reg. No. 22,324
Donald F. Frei	Reg. No. 21,190	David J. Josephic	Reg. No. 22,849
A. Ralph Navaro, Jr.	Reg. No. 23,050	David S. Stallard	Reg. No. 25,930
J. Robert Chambers	Reg. No. 25,448	Gregory J. Lunn	Reg. No. 29,945
Kurt L. Grossman	Reg. No. 29,799	Clement H. Luken, Jr.	Reg. No. 32,742
Thomas J. Burger	Reg. No. 32,662	Gregory F. Ahrens	Reg. No. 32,957
Joseph R. Jordan	Reg. No. 25,686	Wayne L. Jacobs	Reg. No. 35,553
Kurt A. Summe	Reg. No. 36,023	Keith R. Haupt	Reg. No. 37,638
Kevin G. Rooney	Reg. No. 36,330	C. Richard Eby	Reg. No. 25,854
Theodore R. Remaklus	Reg. No. 38,754	Thomas W. Humphrey	Reg. No. 34,353
David E. Pritchard	Reg. No. 38,273	David H. Brinkman	Reg. No. P40,532
Donald M. Hill, Jr.	Reg. No. P40,646	Stephen W. Barns	Reg. No. 38,037
J. Dwight Poffenberger, Jr.	Reg. No. 35,324	Scott A. Stinebruner	Reg. No. 38,323
Herbert C. Brinkman	Reg. No. 16,955	Richard H. Evans	Reg. No. 19,755
Pryor A. Garnett	Reg. No. 32,136	Steven W. Roth	Reg. No. 34,712
Roy W. Truelson	Reg. No. 34,265	Owen J. Gammon	Reg. No. 36,143
Matthew J. Bussan	Reg. No. 33,614	Karuna Ojanen	Reg. No. 32,484
Christopher A. Hughes	Reg. No. 26,914	Edward A. Pennington	Reg. No. 32,588
John E. Hoel	Reg. No. 26,279	Joseph C. Redmond, Jr.	Reg. No. 18,753

Please direct all correspondence in this case to:

Scott A. Stinebruner  
Wood, Herron & Evans, L.L.P.  
2700 Carew Tower  
Cincinnati, Ohio 45202

**CERTIFICATE UNDER 37 CFR 3.73(B)**

International Business Machines Corporation, a New York corporation, certifies that it is the assignee of the entire right, title and interest in the patent application identified above by virtue of an assignment from the inventor(s) of the patent application identified above. A copy of the assignment is attached hereto.

The undersigned has reviewed all the documents in the chain of title of the patent application identified above and, to the best of undersigned's knowledge and belief, title is in the assignee identified above.

The undersigned (whose title is supplied below) is empowered to sign this certificate on behalf of the assignee.

I hereby declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further, that these statements are made with the knowledge that willful false statements, and the like so made, are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: June 9, 1997

By: Steven W. Roth, Reg. No. 34,712  
Title: Attorney

Enc: Copy of Assignment

K:\2001\07\Substitute Power of Attorney-07.wpd

## ASSIGNMENT

WHEREAS, WE, JOSEPH PHILLIP BIGUS, residing at 5113 Highgrove Lane NW, Rochester, Minnesota 55901; BRIAN JOHN CRAGUN, residing at 2613 24th Street NW, Rochester, Minnesota 55901; and HELEN ROXLO DELP, residing at 1714 Northern Viola Lane NE, Rochester, Minnesota 55906, made certain new and useful inventions and improvements for which we executed an application for Letters Patent of the United States filed herewith which is entitled INTELLIGENT AGENT WITH NEGOTIATION CAPABILITY AND METHOD OF NEGOTIATION THEREWITH;

AND WHEREAS, INTERNATIONAL BUSINESS MACHINES CORPORATION, a corporation organized and existing under and by virtue of the laws of the State of New York, and having an office and place of business at Old Orchard Road, Armonk, New York 10504 (hereinafter "Assignee") is desirous of acquiring the entire right, title and interest in and to said inventions, improvements and application and in and to the Letters Patent to be obtained therefor;

NOW THEREFORE, to all whom it may concern, be it known that for and in consideration of the sum of One Dollar and other good and valuable considerations, the receipt and sufficiency whereof is hereby acknowledged, we have sold, assigned, and transferred, and by these presents do sell, assign and transfer unto said Assignee, its successors or assigns, the entire right, title and interest for all countries in and to all inventions and improvements disclosed in the aforesaid application, and in and to the said application, all divisions, continuations, or renewals thereof, all Letters Patent which may be granted therefrom, and all reissues or extensions of such patents, and in and to any and all applications which have been or shall be filed in any foreign countries for Letters Patent on the said inventions and improvements, including an assignment of all rights under the provisions of the International Convention, and all Letters Patent of foreign countries which may be granted therefrom; and we do hereby authorize and request the Commissioner of Patents and Trademarks to issue any and all United States Letters Patent for the aforesaid inventions and improvements to the said Assignee as the assignee of the entire right, title and interest in and to the same, for the use of the said Assignee, its successors and assigns.

AND, for the consideration aforesaid, we do hereby agree that we and my/we and our executors and legal representatives will make, execute and deliver any and all other instruments in writing including any and all further application papers, affidavits, assignments and other documents, and will communicate to said Assignee, its successors and representatives all facts known to me relating to said improvements and the history thereof and will testify in all legal proceedings and generally do all things which may be necessary or desirable more effectually to secure to and vest in said Assignee, its successors or assigns the entire right, title and interest in and to the said improvements, inventions, applications, Letters Patent, rights, titles, benefits, privileges and advantages hereby sold, assigned and conveyed, or intended so to be.

AND, furthermore we covenant and agree with said Assignee, its successors and assigns, that no assignment, grant, mortgage, license or other agreement affecting the rights and property herein conveyed has been made to others by us and that full right to convey the same as herein expressed is possessed by us.

3/17/97  
Date

Joseph Phillip Bigus  
Joseph Phillip Bigus

3/14/97  
Date

Brian John Cragun  
Brian John Cragun

3/18/97  
Date

Helen Roxlo Delp  
Helen Roxlo Delp